United Nations CERD/C/TUR/CO/4-6

International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the combined fourth to sixth periodic reports of Turkey*

1. The Committee considered the combined fourth to sixth periodic reports of Turkey (CERD/C/TUR/4-6), submitted in one document, at its 2408th and 2409th meetings (see CERD/C/SR.2408 and 2409), held on 3 and 4 December 2015. At its 2418th meeting, held on 10 December 2015, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined fourth to sixth periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations and which facilitates the continuation of further engagement with the State party on the implementation of the Convention. The Committee welcomes the open and frank discussion with the State party's delegation as well as responses to questions asked by Committee members.

B. Positive aspects

3. The Committee welcomes the adoption of the following legislative and policy measures:

(a) The Law on Foreigners and International Protection, in 2013;

(b) The Law on the Turkish National Human Rights Institution, in 2012;

(c) The Law on the Ombudsman Institution, in 2012;

(d) The amendment to the Criminal Procedure Code, to allow defendants to use languages other than Turkish in judicial proceedings;

(e) The institution of the individual petition right to the Constitutional Court, in 2012;

(f) The establishment of a research institute for Roma language and culture;

(g) The enactment of the "democratization package", in 2013;

* Adopted by the Committee at its eighty-eighth session (23 November-11 December 2015).

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(h) The establishment of various language and literature institutes for languages other than Turkish.

4. The Committee welcomes the ratification by the State party of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in 2011.

C. Concerns and recommendations

Reservations and declarations

5. The Committee notes the State party's position on maintaining its reservation to article 22 and the two declarations on the implementation and the territorial applicability of the Convention that may affect the full implementation of the Convention (art. 2).

6. **The Committee again invites the State party to consider withdrawing its reservation and declarations in order to ensure the full implementation of the Convention in all territories over which the State party may have jurisdiction.**

Absence of a definition of racial discrimination in conformity with the Convention

7. The Committee is concerned that the definition of racial discrimination contained in the legislation of the State party, in particular in article 10 of the Constitution and relevant provisions of the Penal Code, does not contain "national or ethnic origin and descent" as prohibited grounds for discrimination as set forth in article 1 of the Convention (art. 1).

8. **The Committee recommends that the State party incorporate prohibited grounds for discrimination in the definition of racial discrimination contained in its anti-discrimination legislation, in full compliance with article 1 of the Convention.**

Laws on anti-discrimination and equality and on the establishment of the law enforcement monitoring commission

9. The Committee notes that the State party has not yet adopted the draft of the anti-discrimination and equality legislation to give full effect to the provisions of the Convention. It welcomes the draft law on the establishment of the law enforcement monitoring commission and amendment of certain laws that was submitted to Parliament in 2012 (art. 2).

10. **The Committee recommends that the State party speed up the adoption of the draft anti-discrimination and equality law and ensure its full compliance with the provisions of the Convention. The Committee also recommends that the State party ensure that the equality and advisory bodies contemplated by that draft law are established and provided with adequate resources and independence to fulfil their mandate. It further recommends that the State party adopt the draft law on the establishment of the law enforcement monitoring commission and amendment of certain laws.**

Provision of data

11. The Committee notes the position of the State party with regard to the collection of data based on ethnicity. The Committee, however, regrets that the State party has not provided recent, reliable and comprehensive data either on economic and social indicators or on the use of mother tongues and languages commonly spoken, or other indicators of ethnic origin, that would enable the Committee to better evaluate the enjoyment of economic, social and cultural rights by various groups living in its territory, including

minorities and migrants, and the impact of the various programmes, strategies and plans adopted by the State party.

12. **The Committee recommends that the State party consider collecting such disaggregated data in order to enhance its implementation of the Convention. The Committee also recommends that the State party provide the Committee with any updated available, reliable economic and social indicators based on ethnicity, nationality or country of origin and drawn from academic or social surveys carried out in this field. This will to enable the Committee to have an understanding of the enjoyment of economic, social and cultural rights by various groups living in its territory, as well as information on the impact of programmes, plans and strategies that have been evaluated and measured.**

Minorities and the Treaty of Lausanne of 1923

13. The Committee notes the position and the restrictive interpretation by the State party of the Treaty of Lausanne, as precluding it from recognizing "minorities" other than those specified in the Treaty (art. 1).

14. **The Committee notes that the Treaty of Lausanne does not explicitly prohibit the recognition of other groups as minorities. The Committee therefore recommends that the State party review its position and consider recognizing other groups that may qualify as being ethnic, national or ethno-religious minorities, such as Kurds, Roma, Ezidis and Caferis.**

National human rights institution

15. While taking note that the State party established a national human rights institution in 2012 with a broad mandate, the Committee is concerned about reports that the appointment process of members of the Board does not guarantee the independence of the institution, as required by the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) (art. 2).

16. **The Committee recommends that the State party review the law on the Turkish national human rights institution, in order to guarantee the independence of the institution in full compliance with the Paris Principles.**

Ombudsman Institution

17. The Committee is concerned at the reported lack of independence and authority of the Ombudsman Institution (art. 2).

18. **The Committee recommends that the State party guarantee the independence and the authority of the Ombudsman Institution.**

Human rights bodies

19. The Committee notes the many human rights bodies set up by the State party to implement non-discrimination and the lack of clarity of the role of each (art. 2).

20. **The Committee encourages the State party to ensure that such bodies cooperate and complement each other and that their roles and responsibilities are clear, with sufficient resources to ensure their effectiveness.**

Compliance of the legislation with article 4 of the Convention

21. The Committee is concerned that article 216 of the Penal Code, which prohibits incitement to enmity or hatred on the grounds of social class, race, religion, sect or regional

difference, sets "a clear and imminent danger to public order" as a condition for the prosecution for acts that incite racial hatred. While noting explanations provided by the State party on further amendments to the Penal Code, the Committee regrets the absence in the Penal Code of a provision stipulating racist motive as an aggravating circumstance. The Committee is further concerned at reports that article 216 of the Penal Code has been used to curtail the freedom of expression of and to penalize journalists, human rights defenders and those advocating minority rights (arts. 4 and 5)

22. **In the light of its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention, the Committee recommends that the State party amend article 216 of the Penal Code to ensure that it covers acts of racial discrimination or incitement to racist hatred, in accordance with article 4 of the Convention. The Committee also recommends that the State party ensure that its general penal legislation explicitly includes racist motive as an aggravating circumstance. Recalling its general recommendations No. 35 (2013) on combating racist hate speech, the Committee further recommends that the State party ensure that its penal legislation is not used as a pretext to curtail expressions of protest at injustice, social discontent or opposition.**

Racist hate speech and hate crimes

23. The Committee is concerned at reports of instances of racist hate speech and discriminatory statements in the public discourse, including in the media, directed mainly at minorities. The Committee is also concerned at reports of incidents of hate crimes, including physical attacks targeting individuals on the basis of their ethnic origin, such as Kurds, Armenians and Roma. The Committee is further concerned that cases of hate speech and hate crimes are not always adequately and effectively investigated and that those responsible are not prosecuted and punished. While noting that some cases have been addressed, the Committee remains concerned at the very low number of cases of hate crimes brought to domestic courts (arts. 2 and 4-6).

24. **In the light of its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention, and recalling its general recommendations No. 35 (2013) on combating racist hate speech, the Committee reminds the State party of the importance of safeguarding the rights of groups in need of protection against racist hate speech, incitement to hatred and hate crimes, and recommends that the State party take appropriate measures to:**

(a) **Strongly condemn and distance itself from racist hate speech and discriminatory statements in public discourse, including from politicians, and call upon politicians to ensure that their public statements do not contribute to incitement of racial hatred;**

(b) **Ensure that all reported hate speech and hate crime cases are registered and effectively investigated under the Criminal Code, that those persons responsible are prosecuted where appropriate and, if found guilty, punished with appropriate penalties;**

(c) **Collect and make available disaggregated statistics on the number of reported cases relating to hate speech and hate crimes, the number and the nature of hate speech and hate crimes committed, the number of cases brought to court and the origins and outcomes of those cases;**

(d) **Increase public awareness-raising campaigns and other measures to counter hate speech and hate crimes and continue to train law enforcement officials in this area.**

Organizations that promote racial hatred and propaganda

25. The Committee is concerned about reports that some extremist organizations promote activities that amount to incitement to racial hatred, racist propaganda and ideas of racial superiority. It is also concerned that such organizations are reportedly responsible for racially motivated violence against persons belonging to minority groups that has often gone unpunished (arts. 2 and 4).

26. **In the light of its general recommendation No. 7 (1985) relating to the implementation of article 4 of the Convention, the Committee recommends that the State party ensure that its legislation is effectively applied in full compliance with the provisions of article 4 of the Convention with regard to organizations promoting racist hatred.**

Situation of Roma

27. While noting the various measures taken by the State party to improve the situation of Roma, the Committee remains concerned at the persistence of discrimination, stereotypes and prejudices against Roma, including attacks, such as those which occurred in Selendi, Bursa and Iznik in 2010 and 2013, respectively. The Committee is concerned that: (a) Roma continue to face difficulties in accessing education, housing and employment while they suffer from the effects of poverty; (b) there is low school attendance and a high illiteracy rate among Roma children; (c) Roma, particularly Roma women, are disproportionately unemployed; and (d) many Roma still lack identity documents (arts. 3 and 5).

28. **Recalling its general recommendations No. 27 (2000) on discrimination against Roma and No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee recommends that the State party:**

(a) **Strengthen its efforts to firmly combat racial discrimination and prejudices against Roma and address the challenges that Roma continue to face in many areas, such as access to employment, education and housing;**

(b) **Reinforce its special measures in the context of its next national strategy document for social integration of Roma citizens 2015-2020 to reduce the illiteracy rate and improve the school attendance of Roma children;**

(c) **Firmly address employment challenges faced by Roma women;**

(d) **Continue to consult with Roma communities when designing and implementing such integration measures, including in the context of the Action Plan for the South-eastern Anatolia Project;**

(e) **Provide adequate funding for all programmes, strategies and other policies relating to the integration of Roma;**

(f) **Sensitize Roma on the necessity of possessing identity documents and effectively implement the Prime Minister's circular aimed at providing Roma with identity documents free of charge.**

Kurdish community

29. The Committee is concerned about reports that members belonging to the Kurdish community are discriminated against in the labour market and the unemployment rate of Kurdish women in particular remains high. It is also concerned that, in the context of the fight against terrorism, the enforcement of anti-terrorism legislation and security-oriented policies have reportedly resulted in racial profiling of members of the Kurdish community. Such legislation has been applied to curtail the exercise of the right to freedom of

expression and association and led to the unwarranted arrest, detention and prosecution of Kurds. The Committee is further concerned at reports that a large number of Kurds live in the poorest and most remote provinces, often in poor economic and social conditions. Moreover, the Committee is concerned about reports of limited access to education for Kurdish children, including in their mother tongue (arts. 2 and 5).

30. **The Committee recommends that the State party: (a) pursue and strengthen its measures to address inequalities faced by members of the Kurdish community in gaining access to economic, social and cultural rights on an equal footing with the rest of the population; (b) adopt special measures to promote access by members of the Kurdish community, including women, to the labour market, bearing in mind the its general recommendation No. 25 (2000); (c) ensure that its anti-terrorism legislation does not result in racial profiling or violations of the rights of freedom of expression or association or association or other rights protected by the Convention; (d) in the context of its Action Plan for the South-eastern Anatolia Project, intensify its efforts to combat disparities that exist between the Kurdish provinces and the rest of its territory; and (e) improve the access of Kurdish children in schools, including by promoting the teaching in their mother tongue.**

Protection of minority rights

31. The Committee is concerned that persons belonging to some minority groups, such as Kurds, Roma, Ezidis, Caferis and other groups, do not enjoy economic, social and cultural rights on an equal footing with the rest of the population. While noting the adoption of the elective course entitled "Living languages and dialects", which allows minority children to gain access to education in their mother tongue, the Committee is concerned at reports on the persistence of a number of shortcomings in the full implementation of the course, including: (a) an absence of consultation with the representatives of the language groups concerned when designing textbooks; (b) a lack of qualified teachers; (c) insufficient funding for textbooks and materials; (d) the unclear status of minority schools; and (e) the insufficient funding of minority schools. The Committee is concerned that the 10 per cent threshold constitutes an obstacle to the equitable representation of minority groups in political affairs, in particular in elected bodies. (arts. 2 and 5).

32. **In the light of the Committee's general recommendation No. 32 (2009) on the meaning and scope of special measures in the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee recommends that the State party take appropriate measures to ensure that persons belonging to minority groups are able to enjoy their economic, social and cultural rights on an equal footing with the rest of the population. The Committee also recommends that the State party address shortcomings in the full implementation of the "Living languages and dialects" course, so as to improve the use by minority children of their mother tongue in schools. The Committee further recommends that the State party improve the representation of ethnic groups in public and political life, including by revising the 10 per cent threshold target set for political parties.**

Syrian and Iraqi refugees

33. The Committee notes the efforts made by the State party to protect the human rights of the large number of Syrian and Iraqi refugees that it is hosting in its territory. However, the Committee is concerned at reports that Syrian and Iraqi refugees face challenges, despite measures adopted by the State party, such as: (a) being at risk of racial discrimination; (b) the inadequate living conditions of Syrian refugees; (c) a lack of work permits; (d) reported violence against and trafficking in Syrian refugee women in camps;

and (e) insufficient access to education for some Syrian refugee children, including in their mother tongue (art. 5).

34. **The Committee recommends that the State party pursue efforts and strengthen measures with a view to improving the reception conditions of Syrian and Iraqi refugees. In particular, the Committee recommends that the State party: (a) effectively protect Syrian and Iraqi refugees from racial discrimination, including incitement to hatred; (b) grant work permits, as appropriate, to refugees under the special temporary programme set up by the State party; (c) increase its efforts to ensure that all refugee children have access to education, including in their mother tongue; (d) strengthen its fight against the trafficking in and violence against refugee women in camps; and (e) ensure the effective application of the new Law on Foreigners and International Protection.**

Migrants including refugees and asylum seekers

35. While noting that the State party has adopted the Law on Foreigners and International Protection, the Committee is concerned by inadequacies in the economic and social conditions of migrants. The Committee is also concerned that the State party continues to maintain its geographical reservation to the 1951 Convention on the Status of Refugees, and that that reservation prevents the full protection of refugee rights. It is further concerned at reports of detention of migrants in an irregular situation and asylum seekers and of inadequate conditions in removal centres (art. 5).

36. **The Committee recommends that the State party take appropriate steps to improve the enjoyment of economic, social and cultural rights by migrants, refugees and asylum seekers. In particular, the State party should: (a) withdraw its geographical reservation to the 1951 Convention on the Status of Refugees; (b) avoid the detention of migrants in an irregular situation and asylum seekers, except as a measure of last resort; (c) improve the conditions at removal centres; (d) ensure the effective application of the new Law on Foreigners and International Protection; and (e) provide information on the situation of black people, people of African descent and European migrants who live in the territory of the State party.**

Internally displaced persons

37. The Committee takes note of measures taken by the State party, such as the "van action" project and the "return to village rehabilitation" project, aimed at addressing the situation of internally displaced persons, most of whom are from the Kurdish community. However, the Committee is concerned at reports about: (a) a lack of a national strategy to address the needs of internally displaced persons; (b) the restrictive application and limited effectiveness of the Law on Compensation for Losses Resulting from Terrorism and the Fight against Terrorism of 2004, which prevents some qualified internally displaced persons from receiving compensation for damage suffered; (c) inadequate living conditions of internally displaced persons; (d) difficulties for internally displaced persons in accessing adequate housing or recovering their property; and (e) the low rate of school attendance and of education achievement for internally displaced children (art. 5).

38. **The Committee recommends that the State party: (a) take effective measures to ensure that qualified internally displaced persons receive compensation for damages suffered by eliminating shortcomings in the application of the Law on Compensation for Losses Resulting from Terrorism and the Fight against Terrorism; (b) firmly address the socioeconomic conditions of internally displaced persons; (c) provide internally displaced persons with adequate housing as appropriate and ensure that returnees recover their property; and (d) take measures to increase the access to education and reduce low school attendance of internally displaced children.**

Complaints of racial discrimination and remedies

39. The Committee is concerned at the low number of cases of racial discrimination in various areas of life, such as education and employment, that are brought to domestic courts and other bodies. It is also concerned at the lack of information related to remedies afforded to victims (arts. 2 and 6).

40. **The Committee recommends that the State party ensure that persons who are victims of acts of racial discrimination can submit claims without obstacles. The State party should ensure the effective application of its legislation including the provision of remedies to victims.**

D. Other recommendations

Ratification of other instruments

41. **Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights instruments that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Domestic Workers Convention, 2011 (No. 189), of the International Labour Organization.**

Follow-up to the Durban Declaration and Programme of Action

42. **In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.**

International Decade for People of African Descent

43. **In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015-2024 the International Decade for People of African Descent, and resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next periodic report specific information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.**

Consultations with civil society

44. **The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.**

Amendment to article 8 of the Convention

45. **The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.**

Declaration under article 14 of the Convention

46. **The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual communications.**

Common core document

47. **The Committee encourages the State party to update its common core document, which dates to 1998, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies, held in June 2006 (HRI/GEN/2/Rev.6, chap. I). In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for the such documents.**

Follow-up to the present concluding observations

48. **In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 10, 20, 34 and 45 above.**

Paragraphs of particular importance

49. **The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 24, 28, 30 and 32 above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.**

Dissemination of information

50. **The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly publicized in the official and other commonly used languages, as appropriate.**

Preparation of the next report

51. **The Committee recommends that the State party submit its combined seventh to ninth periodic reports, as a single document, by 15 October 2019, taking into account the reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.**